

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
CIVIL NO:**

MELISSA ATKINSON,)	
)	
Plaintiff,)	
)	
vs.)	<u>COMPLAINT</u>
)	
DIVERSIFIED ADJUSTMENT)	
SERVICE, INC.)	
)	
Defendant.)	

INTRODUCTION

1. This action arises out of Defendant's violation of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 et seq. ("FDCPA").

JURISDICTION AND VENUE

2. Jurisdiction of this court arises pursuant to 15 U.S.C. § 1692k(d), which states that such actions may be brought and heard before "any appropriate United States district court without regard to the amount in controversy."

3. Defendant conducts business and is located in the state of Minnesota, personal jurisdiction is established.

4. Venue in the United States District Court is proper under 28 U.S.C. § 1391(b)(1).

PARTIES

5. Plaintiff is a natural person residing in Paulsboro, New Jersey.

6. Plaintiff is allegedly obligated to pay a debt and is a consumer as defined by 15 U.S.C. § 1692a(3).

7. Defendant is a national corporation with a business office located in Minneapolis, Minnesota.

8. Defendant is a debt collector as defined by 15 U.S.C. § 1692a(6), and sought to collect a consumer debt from Plaintiff.

9. At all times relevant to this Complaint, Defendant has acted through its agents, employees, officers, members, directors, heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives and insurers in the District of Minnesota.

FACTUAL ALLEGATIONS

10. Defendant constantly and continuously places collection calls to Plaintiff seeking payment for an alleged debt.

11. Defendant calls Plaintiff from telephone number (800) 592-3429 multiple times a day, virtually every day, seeking payment for an alleged debt.

12. Defendant has failed to identify itself as a debt collector in subsequent communications as Defendant will only state that this is regarding an important business matter when leaving a voicemail message for Plaintiff.

COUNT I: **VIOLATIONS OF THE FAIR DEBT COLLECTION PRACTICES ACT** **15 U.S.C. § 1692 et seq.**

13. Defendant's violations of the FDCPA include, but are not limited to, the following:

- a. Defendant violated §1692d of the FDCPA by engaging in conduct the natural consequence of which is to harass, oppress, or abuse Plaintiff in connection with the collection of a debt.
- b. Defendant violated §1692d(5) of the FDCPA by causing a telephone to ring repeatedly and continuously with the intent to annoy, abuse, and harass Plaintiff.

- c. Defendant violated §1692e(10) of the FDCPA by failing to disclose in subsequent communications that the communication was from a debt collector.
- d. Defendant violated §1692e(11) of the FDCPA by failing to disclose in subsequent communications that the communication was from a debt collector.

14. Plaintiff is entitled to her attorney's fees and costs incurred in this action.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays that judgment be entered against Defendant for the following:

- a. Statutory damages pursuant to 15 U.S.C. § 1692k
- b. Reasonable attorneys' fees, costs pursuant to 15 U.S.C. § 1692k; and
- c. Awarding such other and further relief as may be just, proper and equitable.

DEMAND FOR JURY TRIAL

Plaintiff is entitled to and hereby respectfully demands a trial by jury. US Const. amend.

7. Fed.R.Civ.Pro. 38.

Dated: September 29, 2010

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